

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FRANCES HILARIO	§	CIVIL ACTION
Plaintiff	§	
	§	
VS.	§	NO. 4:22-CV-2181
	§	
WALMART, INC.	§	
Defendant	§	JURY

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT:

Defendant, WALMART, INC., pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 et seq., provide notice of removal of this action styled *Frances Hilario vs. Walmart, Inc.*; Cause No. 2022-32775, currently pending in the 11th Judicial District Court of Harris County, Texas, and in support thereof, respectfully shows this Court as follows:

I.

Plaintiff, Frances Hilario, filed her Original Petition on March 8, 2022, claiming damages from an alleged slip and fall on June 8, 2021, on food or other substance at a Walmart store in Katy, Texas. Plaintiff served Defendant with the citation on March 14, 2022; therefore, this notice is timely under 28 U.S.C. § 1446(b). *See* Exhibit B (1-3), Plaintiff's Original Petition.

2. Pursuant to 28 U.S.C. §1446 and the Local Rules of the United States District Court for the Southern District of Texas, attached are the following:

- a. All executed process in the case (Exhibit A);
- b. Pleadings asserting causes of action and all answers to such pleadings (Exhibit B);
- c. All orders signed by the state judge (none);
- d. An index of matters being filed (Exhibit C);
- e. The docket sheet (Exhibit D);

- f. A list of all counsel of record, including addresses, telephone numbers, and parties represented (Exhibit E).

These documents represent all that are presently available as required.

4. The District Courts of the United States have original jurisdiction over this action by reason of diversity of citizenship between the parties. 28 U.S.C. §1332. Plaintiff's Original Petition states that Plaintiff, FRANCES HILARIO, is a resident of Harris County, Texas, and a citizen of the State of Texas. *See* Exhibit B (1-3), Paragraph 2.

5. Defendant, WALMART, INC. is a corporation incorporated under the laws of the State of Delaware with its principal place of business in Bentonville, Arkansas, and thus is a citizen of the State of Delaware.

6. Plaintiff's Original Petition in the state court seeks damages over \$250,000 but not more than \$1,000,000, and thus the alleged amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interests and costs. *See* Exhibit B (1-3), Paragraph 4.

7. Removal of this cause of action is proper under 28 U.S.C. §1441. It is a civil action brought in state court and the District Courts of the United States have original jurisdiction over this action under 28 U.S.C. §1332, since Plaintiff and Defendant are diverse in citizenship.

8. As required by 28 U.S.C. §1441, the 11th Judicial District Court of Harris County, Texas falls within the geographical purview of this Court, and thus, venue is proper in the United States District Court of the Southern District of Texas, Houston Division.

9. Written notice of the filing of this Notice of Removal is being promptly given to Plaintiff and a Notice of Filing of Notice of Removal is promptly being filed with the 11th District Court in Harris County, Texas, as required by 28 U.S.C. §1446(d).

WHEREFORE, PREMISES CONSIDERED, Defendant, WALMART, INC. prays that the state action now pending in the 11th District Court in Harris County, Texas, be removed to this Court, and for any further relief to which Defendant is justly entitled.

Respectfully submitted,

MEHAFFY WEBER, P.C.

/s/ Karen L. Spivey
KAREN L. SPIVEY
KarenSpivey@mehaffyweber.com
State Bar No. 18955100
ATTORNEY IN CHARGE FOR DEFENDANT,
WALMART, INC.
P.O. Box 16
Beaumont, TX 77704-0016
2615 Calder Avenue, Suite 800
Beaumont, TX 77702
Ph: 409-835-5011
Fx: 409-835-5177

CERTIFICATE OF SERVICE

In addition to e-filing, this is to certify that a true and correct copy of the above and foregoing instrument has been forwarded by Certified Mail, return to receipt requested, to counsel of record on this the 1st day of July, 2022, pursuant to both the Federal Rules of Civil Procedure and the Federal Rules of Civil Procedure.

Mr. Sean Madera
SBN: 24094809
eserve@puschnghuyen.com
PUSCH & NGUYEN LAW FIRM PLLC
6330 Gulf Freeway
Houston TX 77023
Ph: 713-524-8139
Fx: 713-524-7034

/s/ Karen L. Spivey
KAREN L. SPIVEY